

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

RICKY LEE GRIFFITTS, )  
                          )  
                          )  
Plaintiff,            )  
                          )  
vs.                    ) Case No.  
                          )  
                          )  
OLD REPUBLIC INSURANCE )  
COMPANY, BNSF RAILWAY )  
COMPANY, AND JAMES M. )  
CAMPBELL,             )  
                          )  
Defendants.          )

**NOTICE OF REMOVAL**

To:       United States District for the Western District of Missouri, Southern Division

Please take notice that separate defendants BNSF Railway Company (BNSF) and Old Republic Insurance Company (Old Republic) (collectively referred to herein as the "Removing Defendants") hereby remove the civil action captioned *Ricky Griffitts v. Old Republic, BNSF, and James Campbell* (Case No. 1331-CC00421) from the Circuit Court of Greene County, Missouri to the United States District Court for the Western District of Missouri, Southern Division, and allege as follows:

This removal is based on diversity of citizenship and is made pursuant to 28 U.S.C. §§ 1332 and 1441(a)(b).

On March 25, 2013, Griffitts filed a garnishment under section 379.200, R.S.Mo. in the Circuit Court of Greene County, and BNSF and Old Republic accepted service of the state lawsuit on March 27, 2013. (A complete copy of the state lawsuit which was filed and for which BNSF and Old Republic have accepted service is attached as Exhibit 1). A copy of the letter confirming acceptance of service of the state lawsuit by BNSF an

Old Republic is attached as Exhibit 2. Griffitts did not request service on Campbell, nor has Campbell accepted service of the lawsuit. (Exhibit 3). Removal of the lawsuit action to this Court is proper pursuant to 28 U.S.C. § 1441 because this action originally could have been filed in this Court pursuant to 28 U.S.C. § 1332. Specifically, this Court has subject matter jurisdiction over this action because there is the requisite diversity of citizenship between the parties due to the following:

1. Plaintiff Griffitts is a citizen of the State of Missouri;
2. Defendant BNSF is incorporated in the State of Delaware and has its principal place of business in the State of Texas;
3. Defendant Old Republic is incorporated in the State of Pennsylvania and has its principal place of business in Pennsylvania; and
4. Defendant Campbell is a citizen of the State of Georgia.

The amount in controversy in this case exceeds \$75,000 as Griffitts seeks to collect on a judgment of \$1.475 million.

To remove a case to federal court, the removing defendants must file their removal notice “within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the [complaint] . . .” 28 U.S.C. § 1446(b); *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347 (1999). In this case, Removing Defendants first became aware of Griffitts’ lawsuit attached as Exhibit 1 on March 26, 2013. Thus, this notice of removal is timely under 28 U.S.C. § 1446(b).

The United States District Court of the Western District of Missouri, Southern Division, embraces the county in which the state court action is now pending, and thus, this Court is a proper venue for this action pursuant to 28 U.S.C. § 105(a)(1).

The removing defendants are filing written notice of this removal with the clerk of the Circuit Court in Greene County, Missouri pursuant to 28 U.S.C. § 1446(d). Copies of the notice of filing notice of removal, together with this notice of removal, are being served on counsel for Griffitts pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, the Removing Defendants BNSF Railway Company and Old Republic Insurance Company respectfully remove this action from the Circuit Court of Greene County, Missouri to this Court, pursuant to 28 U.S.C. § 1441.

Dated this 29<sup>th</sup> day of March, 2013.

Respectfully submitted,

LATHROP & GAGE LLP

By: */s/ Laurel E. Stevenson*  
Laurel E. Stevenson #36313  
[lstevenson@lathropgage.com](mailto:lstevenson@lathropgage.com)  
Jarica L. Oeltjen, #64924  
[joeltjen@lathropgage.com](mailto:joeltjen@lathropgage.com)  
P. O. Box 4288  
Springfield, MO 65808  
(417) 886-2000 FAX: 886-9126  
Attorneys for Defendants BNSF and  
Old Republic

#### **CERTIFICATE OF SERVICE**

I hereby certify that on the 29<sup>th</sup> day of March, 2013, a copy of the foregoing was deposited in the United States Mail, postage prepaid, to the following:

James E. Corbett/Daniel Molloy  
Corbett Law Firm, P.C.  
2015 East Phelps  
Springfield, MO 65802

James M. Campbell  
606 Chestnut Avenue, Apt. B  
Tifton, Georgia 31794

*/s/ Laurel E. Stevenson*